



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Release Number: **201203025**
Release Date: 1/20/2012
Date: October 26, 2011
UIL Code: 501.32-00
501.32-01
501.33-00

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear

This is our final determination that you do not qualify for exemption from federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Since you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, you should follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

Letter 4038(CG) (11-2005)
Catalog Number 47632S

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Lois Lerner
Director, Exempt Organizations

Enclosure
Notice 437
Redacted Proposed Adverse Determination Letter
Redacted Final Adverse Determination Letter



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date: August 24, 2011

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND:

B = date
C = state
D = individual
E = individual
F = individual
G = firm
h = dollar amount
j = dollar amount
k = dollar amount
l = dollar amount
m = dollar amount
n = dollar amount
P = state
Q = state

UIL:

501.32-00
501.32-01
501.33-00

Dear

We have considered your application for recognition of exemption from federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

Letter 4036(CG) (11-2005)
Catalog Number 47630W

Issues

Do you fail to meet either the operational or organizational test? Yes, for the reasons stated below.

Will you operate in a commercial, non-exempt manner? Yes, for the reasons given below.

Are private interests being served prohibiting you from qualification under Section 501(c)(3) of the Code? Yes, for the reasons given below.

Facts

You were incorporated in the state of C on date B. Your Incorporator is D. Your Articles of Incorporation state that your specific purpose is to promote the financial health of the communities' heroes and to provide educational opportunities to those same individuals and/or entities. Your Articles also provide that you are formed for exclusive 501(c)(3) purposes. Article XIV of your Articles states that the Board of Directors may revoke the appointment of the Incorporator/Director as agent at any time and shall have the power to fill any vacancy in such position.

Your Bylaws state that your specific purposes are charitable and educational within the meanings of Internal Revenue Code Section 501(c)(3). Specifically, to promote the financial health of the communities' heroes and to provide educational opportunities to those same individuals and/or entities."

Section 3.3 of your Bylaws state that

"so long as the Incorporator remains on the Board of Directors all additional directors, should there be any, shall be appointed and removed by the Incorporator for terms set by the Incorporator at the time of appointment. If the Incorporator is no longer on the Board of Directors, Directors shall be elected by the existing Board of Directors...if dismissed by the Incorporator, the dismissed Director's term shall cease immediately and appointment of a new Director may be made by the Incorporator."

You submitted a Conflict Of Interest policy that was not executed.

You are formed to provide assistance to community heroes seeking assistance for various services at discounted prices. Services include home loan lending, real estate purchase/sales, insurance, financial planning, home construction, title & escrow and credit/debt repair. You provide a list of services to community heroes through affiliated

organizations who have been approved by you to provide such services to referred clients. Community heroes are defined as the following individuals either active or retired:

Government – City, State & Federal

Military – All branches & all veterans including the National Guard, Reserves and Coast Guard

Schools Systems – Public & Private

Medical Systems – Public & Private

EMS Personnel – Fire, Police & Medical

You submitted pages from your website that include descriptions of your programs and services. Your home page states that your program is designed to target, screen and maintain a strategic network of professionals and companies that provide quality assurance to community heroes at discounted prices not available to the general public. Also, you state that your primary goal is to provide comprehensive solutions which help make homeownership and financial security affordable and easily accessible. Providing convenient, all-in-one programs which showcase the best products and services, at the best prices, by the best professionals. In addition, the website provides a list of affiliates as well as each affiliated service provided at discounted prices.

D is employed by an affiliate lender, G, and is a presenter for some of your educational forums. F, who holds the position of Client Relations, is also employed by G. You projected salaries for each of your board members, D, E (as Program Coordinator) and F, but indicated that none had been paid to date. You stated the board would be expanded to include members of the affiliate organizations as well as members of the armed forces, police and firemen's organizations. You subsequently expanded your Board of Directors to add three new members, removing E; D and F remained. One of the three new members has a familial relation to D and all are employed in the financial banking industry.

Your facility has moved and is currently located inside G's facility, consisting of one office and shared conference room and lobby. The landlord of the facility is an unrelated third party.

You provided descriptions of each of your programs offered in conjunction with your affiliates. Initially you stated that classes/seminars were written by the instructor and not by you, although your Board does approve the class outline, content, handouts and other materials. Instructors for classes/seminars will be chosen from the list of affiliates. You later indicated that you write the educational material used, conduct the seminars

and at times include a guest speaker from an affiliate. Actual materials from seminars that had been conducted show materials were "brought to you by" an affiliate, a local real estate company, and other materials list the presenter as D from G with another local realty executive.

Classes are strictly for educational purposes and participants are referred to your website for a list of affiliates. Discounts available include: lender credit towards closing costs, free financial consultations, appraisal discounts, builder discounts, manufactured home dealer discounts, credit towards closing costs from real estate agent's commissions and title fee discounts. You do not meet with applicants. Your only contact is to determine if the individual meets your criteria as a "hero" and is therefore eligible to receive the discounted services. The heroes meet in person with the referred individual/affiliate.

You anticipated raising funds via several methods. Affiliates pay annual membership fees of h dollars and the lender affiliate will donate j dollars for every loan that closes. You also expect donations from the community, grants from municipal down payment assistance programs, annual fundraisers involving affiliates, employers and the community as well as the fire department. Actual financial data from your first year and projections for the next two years show all of your income being received through fees.

Affiliates are chosen through an application process conducted by your board that involves a credit check, employment history and a background check. The affiliates are involved with each of your educational seminars which allows exposure of the affiliate in their field. Affiliates may also attend any seminar for networking with the hero participants. You determine affiliate discounts. Current discounts include: lender – k dollars; title fee – 30%; realtor – l dollars; appraiser – m dollars; financial advisor k dollars - credit repair – n dollars per person.

Approximately 60% of your class/seminar attendees have income levels under 125% of the area median income and you work with other non-profit agencies in regards to down payment assistance for income levels under 100% of the area median income. The 60% statistic was based upon 26 mortgage loans processed by G as a result of your referrals. Your seminars are held throughout the states of C, P and Q. To date all seminars have been provided free of charge.

Law

Section 501(c)(3) of the Code provides that corporations may be exempted from tax if they are organized and operated exclusively for charitable or educational purposes and no part of their net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations ("regulations") provides that, in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(i) of the regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities that in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the regulations provides that an organization's assets must be dedicated to an exempt purpose, either by an express provision in its governing instrument or by operation of law.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations states that an organization must demonstrate that it serves a public rather than a private interest and specifically that it is not organized or operated for the benefit of private interests, such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable," is used in section 501(c)(3) in its generally accepted legal sense and includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

Section 1.501(c)(3)-1(d)(3)(i) of the regulations provides that the term "educational," as used in section 501(c)(3) of the Code, relates to:

- (a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or
- (b) The instruction of the public on subjects useful to the individual and beneficial to the community.

Rev. Rul. 67-138 - The organization's training of low-income families on various aspects of house-building and homeownership is "educational" since the training is useful to and develops the capabilities of the individuals who receive it and benefits the community. The organization's other activities in assisting families in need to obtain adequate housing are "charitable" since they provide relief to the underprivileged, lessen the burdens of government, and are a means of combating community deterioration. Accordingly, the organization is exempt from Federal income tax under section 501(c)(3) of the Code.

Rev. Rul. 67-5, 1967-1 C.B. 123, holds that a foundation controlled by the creator's family was operated to enable the creator and his family to engage in financial activities that were beneficial to them, but detrimental to the foundation. This resulted in the foundation's ownership of common stock that paid no dividends of a corporation controlled by the foundation's creator and his family, which prevented it from carrying on a charitable program commensurate in scope with its financial resources. This ruling concluded that the foundation was operated for a substantial non-exempt purpose and served the private interest of the creator and therefore, was not entitled to exemption under section 501(c)(3) of the Code.

Rev. Rul. 69-441 - By aiding low-income individuals and families who have financial problems and by providing, without charge, counseling and a means for the orderly discharge of indebtedness, the organization is relieving the poor and distressed. Furthermore, by providing the public with information on budgeting, buying practices, and the sound use of consumer credit, the organization is instructing the public on subjects useful to the individual and beneficial to the community. Accordingly, the organization is exempt from Federal income tax under section 501(c)(3) of the Code.

Rev. Rul. 70-186, 1970-1 C.B. 128, found that it would be impossible to accomplish the organization's charitable purposes of cleaning and maintaining a lake without providing benefits to certain private property owners. In the quantitative sense, to be incidental, the benefit to private interest must not be substantial in the context of the overall public benefit conferred by the activity.

Rev. Rul. 70-585, 1970-2 CB 115 found where an organization's program is not designed to provide relief to the poor or to carry out any other charitable purpose within the meaning of the regulations applicable to section 501(c)(3) of the Code it is not entitled to exemption under section 501(c)(3) of the Code. See Situation 4.

Rev. Rul. 80-287, 1980-2 C.B. 185, denied exemption under 501(c)(3) to an organization that involved a non-profit lawyer referral service that arranges, at the request of any member of the public, an initial half-hour appointment for a nominal charge with a lawyer whose name is on an approved list maintained by the organization. As a general rule, providing services of an ordinary commercial nature in a community, even though the undertaking is conducted on a nonprofit basis, is not regarded as conferring a charitable benefit on the community unless the service directly accomplishes one of the established categories of charitable purposes. The organization's activities are directed toward assisting individuals in obtaining preventive or remedial legal services and, as such, are not specifically designed to eliminate prejudice or discrimination or to defend human and civil rights secured by law and does not confer a charitable benefit on the community. Although the lawyer referral service provides some public benefit, a substantial purpose of the program is promotion of the legal profession.

In Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279, 283, 66 S. Ct. 112, 90 L. Ed. 67 (1945), the Supreme Court held that the "presence of a single . . . [nonexempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly . . . [exempt] purposes."

In Leon A. Beeghly v. Commissioner, 35 T.C. 490 (1960), provided that where an exempt organization engages in a transaction with a related interest and there is a purpose to benefit the private interest rather than the organization, exemption may be lost even though the transaction ultimately proves profitable for the exempt organization.

In B.S.W. Group, Inc. v. Commissioner, 70 T.C. 352 (1978), the court found that a corporation formed to provide consulting services did not satisfy the operational test under section 501(c)(3) of the Code because its activities constituted the conduct of a trade or business that is ordinarily carried on by commercial ventures organized for profit. Its primary purpose was not charitable, educational, or scientific, but rather commercial. In addition, the court found that the organization's financing did not resemble that of the typical section 501(c)(3) organizations. It had not solicited, nor had it received, voluntary contributions from the public. Its only source of income was from fees from services, and those fees were set high enough to recoup all projected costs and to produce a profit. Moreover, it did not appear that the corporation ever planned to

charge a fee less than "cost." And finally, the corporation did not limit its clientele to organizations that were section 501(c)(3) exempt organizations.

In P.L.L. Scholarship v. Commissioner, 82 T.C. (1984), an organization operated bingo at a bar for the avowed purpose of raising money for scholarships. The board included the bar owners, the bar accountant, also the director of the bar, as well as two players. The board was self-perpetuating. The Court reasoned that since the bar owners controlled the organization and appointed the organization's directors, the activities of the organization could be used to the advantage of the bar owners

In Easter House v. U.S., 12 Ct. Cl. 476 (1987), aff'd 846 F. 2d 78 (Fed. Cir 1988), the court found that adoption services were the primary activity of the organization. In deciding that the organization conducted adoption services for a business purpose rather for a charitable purpose, the court considered the manner in which the organization operated. The record established a number of factors that characterize a commercial activity and which were evident in the operations of Easter House also. The court determined that the organization competed with other commercial organizations providing similar services; fees were the only source of revenue; it accumulated very substantial profits, because it set its fees in order to generate a profit; the accumulated capital was substantially greater than the amounts spent on charitable and educational activity; and the organization did not solicit and did not plan to solicit contributions.

In Living Faith, Inc. v. Commissioner, 950 F.2d 365 (1991), the Court of Appeals upheld a Tax Court decision that an organization operating restaurants and health food stores in a manner consistent with the doctrines of the Seventh Day Adventist Church did not qualify for exemption under section 501(c)(3) of the Code because the organization was operated for a substantial nonexempt commercial purpose. The court found that the organization's activities were "presumptively commercial" because the organization was in competition with other restaurants, engaged in marketing, and generally operated in a manner similar to commercial businesses.

In Airlie Foundation v. Commissioner, 283 F. Supp. 2d 58 (D.D.C., 2003), the court relied on the "commerciality" doctrine in applying the operational test. Because of the commercial manner in which this organization conducted its activities, the court found that it was operated for a non-exempt commercial purpose, rather than for a tax exempt purpose. As the court stated:

Among the major factors courts have considered in assessing commerciality are competition with for profit commercial entities; extent and degree of

below cost services provided; pricing policies; and reasonableness of financial reserves. Additional factors include, inter alia, whether the organization uses commercial promotional methods (e.g. advertising) and the extent to which the organization receives charitable donations.

Application of Law

Section 501(c)(3) of the Code sets forth two main tests for an organization to be recognized as exempt. An organization must be both organized and operated exclusively for purposes described in section 501(c)(3). As set forth below, because you fail both the organizational and operational tests you do not meet the specifications of Section 1.501(c)(3)-1(a)(1) of the regulations and therefore do not qualify for exemption under 501(c)(3).

Organizational Test

To demonstrate that it is organized exclusively for exempt purposes an organization must have valid purpose and dissolution provisions. Sections 1.501(c)(3)-1(b)(1)(i) and 1.501(c)(3)-1(b)(4) of the regulations. Your Articles provide that your specific purpose is to: "...promote the financial health of the communities heroes and to provide educational opportunities to those same individuals and/or entities." Your Articles are not limited to one or more exempt purposes. Specifically, promoting the financial health of community "heroes" is not an exempt purpose. Therefore, you do not have a valid purpose clause, are not organized for exempt purposes, and fail the organizational test.

Operational Test

To satisfy the 501(c)(3) operational test, an organization must establish that it is operated exclusively for one or more exempt purposes. Section 1.501(c)(3)-1(c)(1) of the regulations. All of your time and resources are devoted to providing referrals to for-profit entities. You enter into agreements with for-profit service providers, also known as affiliates, to provide discounted rates to "community heroes." The for-profit entities then provide various services related to home buying to the referred individuals at discounted rates. Providing referrals to for-profit entities for does not necessarily provide relief to the poor and distressed within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations or serve any other purpose recognized as charitable.

You claimed that 60% of your seminar attendees have income levels under 125% of the median income. The statistic was based upon the 26 mortgage loans that were completed by G. Your seminars are not restricted to that specified county, rather they are offered in three states. There is no evidence that you consider the income of the individuals to whom you provide referrals. Therefore, your services are not directed

exclusively to poor and/or distressed individuals. Accordingly, you are unlike the organizations described in Rev. Rul. 67-138, *supra* and Rev. Rul. 69-441, *supra*, which aided low-income individuals and families who have financial problems, thereby relieving the poor and distressed. You are similar to the organization described in Situation 4 of Rev. Rul. 70-585 in that you are providing assistance to individuals that are not poor and distressed. Thus, you failed to establish that your activities are charitable within the meaning of section 501(c)(3) of the Code.

As you have failed to establish that you are operated exclusively for one or more exempt purposes you fail the operational test.

Substantial Nonexempt Commercial Purpose

The courts have developed guidelines intended to help discern whether an organization has a substantial nonexempt commercial purpose. Generally, the factors proffered by courts focus on the nature of the activities and how an organization conducts its business.

A substantial part of your activities consists of providing referrals to for-profit affiliates which is not an exempt purpose but rather a substantial nonexempt commercial purpose. Like the organizations in Easter House, Airlie, and Living Faith, you are in direct competition with commercial businesses because you are making referrals to for-profit affiliates to provide the various services required to purchase a home. You are similar to the organization in Rev. Rul. 80-287 in that "providing services of an ordinary commercial nature in a community is not regarded as conferring a charitable benefit on the community unless the service directly accomplishes one of the established categories of charitable purposes." While you do limit your referral service to specified individuals in the community, the specified individuals are not necessarily poor or distressed. You conduct your consulting activities in the same manner as commercial enterprises. For example, you charge your affiliates fees in order to participate in your program and receive referrals and you set the discount rates that will be offered. Accordingly, your commercial activities evidence a substantial nonexempt commercial purpose. The activities you identify as "charitable" are merely incidental to your business of providing referrals for a fee. Your operational focus is on generating affiliate fees from your consulting activities. Like the organizations described in Better Business Bureau, and Easter House, your activities have an underlying commercial motive that distinguishes your activities from those carried out by a charitable organization.

Your finance structure further demonstrates that you operate for a substantial nonexempt commercial purpose. You initially indicated that you will solicit donations from the community, apply for grants and hold fundraisers, however, your actual financial data shows all of your income was received from affiliate fees. Your revised

budgets show your income will continue to be received solely from affiliate fees. There is no evidence that you have received contributions or gifts from disinterested members from either the general public or through fundraising events. Accordingly, you are like the organization described in B.S. W. Group. Its financing did not resemble that of the typical section 501(c)(3) organization. It had not solicited, nor had it received, voluntary contributions from the public. Its only source of income was from fees from services, and those fees were set high enough to recoup all projected costs and to produce a profit. Your operations are financed entirely by revenue earned from fees paid by affiliates to participate in your referral service program. Receiving support primarily from consulting fees is indicative of a nonexempt purpose. Easter House, *supra*.

Inurement

An organization is not organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest. Section 1.501(c)(3)-1(d)(1)(ii) of the regulations. Control is an important factor in determining whether an organization operates for the benefit of private interests. Similar to the organizations in P.L.L. Scholarship v. Commissioner, Leon A Beeghly v. Commissioner and Rev. Rul. 67-5, you do not have adequate safeguards that will protect you in your dealings with G. D, who is employed by G, controls you based upon the provisions found in your Articles and Bylaws. While you allege that D does not retain the authority to appoint or remove directors, your Bylaws and Articles indicate otherwise. Sections 3.2, 3.3 and 4.3 all provide that if the Incorporator is a board member they retain the authority to remove and appoint all board members. Your Articles do not provide otherwise. Article XIV does provide that D may be removed by the board as agent not as incorporator. Further, because D has family and business relations with two other board members the majority of your governing body is related. For these reasons D retains unchecked control over your board and you and demonstrates that you are serving private rather than public interests. D and F are employed by G; another board member is related to D. Any business generated through you to G confers a direct benefit on both D and F as well as G. Thus, you failed to demonstrate that insiders will not benefit from your relationship with G. Because D is an insider this also results in inurement.

In Rev. Rul. 70-186 it was found that it would be impossible to accomplish the organization's charitable purposes of cleaning and maintaining a lake without providing benefit to certain private property owners. The referrals that you provide to for-profit corporations benefit the for-profit entities in a more than insubstantial manner. In addition, your referrals result in the receipt of discounted services by those who are not poor or distressed. The private benefit in this case is more than insubstantial in relation to the overall public benefit. Your activities result in private benefit to your affiliates, your

board, and to the referred individuals receiving discounted services not otherwise available to the public. Therefore, you have not demonstrated that your operations serve a public rather than a private interest as required by section 1.501(c)(3)-1(d)(1)(ii) and you do not qualify for exemption.

Conclusion

The facts and law above provide three reasons, any one of which is alone sufficient, to deny exemption. You fail the organizational test as your purposes are too broad, you operate in a commercial manner by providing referrals for a fee, and more than an insubstantial benefit is being provided to your board and affiliates through your operations. Any public purposes for which you may operate are only incidental to these nonexempt purposes and operations.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns. Contributions to you are not deductible under section 170.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

Types of information that should be included in your appeal can be found on page 2 of Publication 892. These items include:

1. The organization's name, address, and employer identification number;
2. A statement that the organization wants to appeal the determination;
3. The date and symbols on the determination letter;
4. A statement of facts supporting the organization's position in any contested factual issue;
5. A statement outlining the law or other authority the organization is relying on; and
6. A statement as to whether a hearing is desired.

The statement of facts (item 4) must be declared true under penalties of perjury. This may be done by adding to the appeal the following signed declaration:

"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."

Your appeal will be considered incomplete without this statement.

If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. If you want representation during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at www.irs.gov, Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to appeal as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848, and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service
EO Determinations Quality Assurance
Room 7-008
P.O. Box 2508
Cincinnati, OH 45201

Deliver to:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Room 7-008
Cincinnati, OH 45202

You may fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Lois G. Lerner
Director, Exempt Organizations

Enclosure, Publication 892